



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,176	07/31/2001	Christine L. Corriveau	112703-183	9018

29156 7590 03/20/2003

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER

CORBIN, ARTHUR L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683116

Applicant(s)

CORRIVEAU ET AL

Examiner

ARTHUR L. CORBIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 2-11-03

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-26 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-26 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1761

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 9-15, 17, 18, 21-24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Cherukuri et al.

Applicant is referred to paragraph No. 6, Paper No. 5. Further, a powdered sweetener ²⁵ used in Cherukuri et al inherently includes particles smaller than the 6 mm gum particles used therein.

4. Claims 6, 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri ⁸ et al.

Applicant is referred to the reasoning set forth in paragraph No. 7, Paper No. 5.

5. Claims ^{8, 16,} ~~25, 16,~~ 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al in view of Ream et al. Applicant is referred to the reasoning set forth in paragraph No. 8, Paper No. 5.

Art Unit: 1761

6. Claims 1-26 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (cols. 1-6) in view of Cherukuri et al or Athanikar et al.

Applicant is referred to the reasoning set forth in paragraph No. 9, Paper no. 58.

7. Applicant's arguments filed February 11, 2003 have been fully considered but they are not persuasive. Although Cherukuri et al does not specifically use the term "gum chips", as applicant contends, the gum particles or ^{rules} ~~grains~~ in Cherukuri et al ^{are} ~~not~~ equivalent to applicant's gum chips, ^{especially} ~~and thereby~~ since Cherukuri et al's gum particles are of the same size as claimed for applicant's gum chips (claim 13). Further, the powdered sweetener in both primary references is equivalent to applicant's tableting media since applicant uses sucrose or dextrose powder as the tableting media (spec., page 8, second full paragraph). The particles in a powdered sweetener are less than 6 mm, the size of the gum particles in Cherukuri et al and the size of the gum chips in Ream et al. Thus, the tableting media or powdered sugar of either primary reference naturally is smaller in size than the size of the ^{gum} chips or particles therein.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1761


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can generally be reached on Tuesday--Friday from 10 a.m. to 7:30 p.m. and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

A. Corbin/dh
March 17, 2003


ARTHUR L. CORBIN
PRIMARY EXAMINER
3-19-03